

STATE OF NORTH CAROLINA
HARNETT COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
17 CVS 1747

DOLLIE GRIGGS, as Administrator of the
Estate of CHRISTIAN GRIGGS,
Plaintiff,

TRANSCRIPT, Volume I OF I

v.

WILLIAM PAT CHISENHALL,
Defendant.

[Pages 1-66]

Monday, December 3, 2018

* * * * *

Harnett County Civil Superior Court

December 3, 2018 Session

The Honorable Beecher Gray, Judge Presiding

Pretrial Motions

APPEARANCES:

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2 December 3, 2018 - 4:03 p.m.

3 [the following was held in the conference room on the third floor
4 of the Harnett County Courthouse]

5 MR. JESSUP: Your Honor, here's filed copies of our
6 motions in limine. They were filed last Thursday. Should be
7 in the court file.

8 THE COURT: They are right here in the file.

9 MR. JESSUP: Okay. Perfect.

10 THE COURT: Those are copies. I can read them easier.

11 MR. JESSUP: Yes, sir, your Honor.

12 THE COURT: Let me look at something here just for a
13 second. Is this the order of Judge Gilchrist October 7 you
14 were talking about that he says that carries over into the
15 trial?

16 MS. JACKSON: Yes, your Honor.

17 THE COURT: That describes the discovery process and all
18 that? Okay. Let's go ahead and just discuss this.

19 MR. LEVIN: Whose motions do you want to hear first?

20 THE COURT: Does it make more sense to hear one side
21 before the other?

22 MR. JESSUP: I think it might make sense to hear some of
23 ours first because our first one will depend on how we feel
24 about a number of different things.

25 THE COURT: Okay.

2 MR. JESSUP: So your Honor, I think you probably have a
3 little bit of familiarity with the case already.

4 THE COURT: Just what I have read in the file this
5 morning.

6 MR. JESSUP: Yes, sir, your Honor. It's a shooting death.
7 Defense contends it was self-defense. We contend it was not.
8 Plaintiff's decedent was shot six times by the defendant.

9 THE COURT: I'm sorry to interrupt. Did you get on the
10 record what you need, what we're doing and why, where we are,
11 in-chambers conference?

12 THE COURT REPORTER: Yes, your Honor.

13 THE COURT: Okay. Just wanted to make sure that's in the
14 record.

15 THE COURT REPORTER: Is this considered sealed from --

16 MR. LEVIN: Well, I think during the course of the trial,
17 it should be sealed. After the trial is over, I don't think it
18 should be sealed.

19 MR. JESSUP: I agree with that.

20 THE COURT: I agree with that too. The matters discussed
21 in this in-chambers conference will remain sealed during the
22 pendency of this trial. After the trial is over, it may --
23 does not need to be sealed any longer unless something else
24 arises that causes us to put it under seal.

25 MR. JESSUP: Yes, sir, your Honor.

2 THE COURT: All right. Go ahead.

3 MR. JESSUP: Plaintiff's decedent was shot six times by
4 the defendant with a 22 caliber hunting rifle. One bullet
5 grazed the shoulder. One bullet grazed the side of his
6 abdomen, and then he was shot four times in the back.
7 According to the state medical examiner, the plaintiff's
8 decedent was either laying facedown on the ground or was bent
9 over in a prone position as if on his hands and knees at the
10 time the four fatal shots were fired into his back.
11 Accordingly, we contend those four fatal shots were not fired
12 in self-defense. Plaintiff's decedent was the son-in-law of
13 the defendant. He was married to the defendant's daughter.
14 Our evidence is that his daughter Katie was drinking the night
15 before, October 11, with a police officer and someone who
16 worked for the sheriff's department. That Christian became
17 upset that Katie was consuming alcohol with the child there
18 with them. That some kind of dispute took place, and that
19 Katie did not give Christian his child when it was scheduled
20 visitation. The next morning, Christian came back to pick up
21 his child. It was on his calendar. His grandmother was in
22 town to meet the child for the first time.

23 THE COURT: So they were separated.

24 MR. JESSUP: Yes, sir, your Honor. They'd only been
25 separated for a few weeks though. Three weeks before this.

2 The defendant baptized plaintiff's decedent in his backyard,
3 and he was actually living on the defendant's property up until
4 just a matter of a few weeks before this when we believe he
5 still had a key to the home, your Honor. That's what our
6 evidence is going to show. The defendants have a different
7 story. The defendant's story is that the night before,
8 Christian was upset because Jaden had been to the zoo with
9 Katie's friends and he didn't want her to do that and something
10 took place where he damaged an air conditioning unit and that
11 the next morning Christian was trying to break into their home
12 and he was coming through a window when all shots were fired,
13 including the four in the back. However, Mr. Chisenhall, in
14 his deposition, testified that he can't remember what took
15 place at the time of the shooting. So Katie was hiding in a
16 closet. So there is some questions about that narrative, your
17 Honor. Regardless, Mr. Chisenhall was not charged with a
18 crime, which brings us to our first motion in limine to keep
19 out the fact that the defendant was not charged, your Honor.
20 And I have here a notebook of cases that I will refer to as we
21 go through this. Mr. Levin already has one.

22 In short, your Honor, there is a whole bunch of cases on
23 this. Just quoting from *Hennett v. Holland* behind divider one of
24 your notebook, a danger exists that the jury in a civil action
25 will give undue weight to the evidence that the defendant was

2 never criminally charged or convicted for his role in the
3 incident at issue. That's page 150 of Hennett v. Holland behind
4 divider one, and generally, your Honor, and behind divider two,
5 we have got the Beanblossom case, three is the Durham Bank case,
6 four is the Fowler case. All of these are cases, your Honor,
7 that support the strong proposition established in North Carolina
8 law that the fact that a defendant was never charged or convicted
9 for his role in the incident at issue should not be admitted into
10 evidence under Rule 403. That's well established under North
11 Carolina law, your Honor, and we think that the fact he was not
12 charged should not be introduced to the jury, and that's our --
13 and I can argue these all together or I can argue them one at a
14 time.

15 THE COURT: Let's do them one at a time. Do you have any
16 objection to that motion?

17 MR. LEVIN: Well, let me give you my take on the case
18 because it's a little bit different. These parties, Christian
19 Griggs, the decedent, actually lived with the defendant for a
20 period of time before they were married, and they had a child,
21 Katie and Christian, and they moved to Georgia to join the Army
22 and there was some domestic violence issues down there. They
23 were split again. They had separated on and off for many
24 years. This just wasn't the 30 days before the incident that
25 occurred. I think all evidence will show that Christian and

2 Mr. Chisenhall had a very close relationship. He was his
3 spiritual adviser. Christian was sent to Iraq. Christian was
4 near an IED explosion. He wasn't hurt, but he had two of his
5 buddies killed. He was a different person after that. There
6 was two domestic violence issues in Georgia. There was a
7 sheriff's call here in North Carolina in 2012, and then we jump
8 ahead to 2013 when they are separated, and the night before,
9 the record will show that Christian became so violent when he
10 heard that his daughter had been to the zoo with some friends
11 of Katie that he didn't take Jaden, the daughter, as he was
12 supposed to. The law was called. 911 was called.

13 THE COURT: How old was the daughter at the time?

14 MR. LEVIN: Four. There is a sheriff's report. Katie and
15 her dad went to get a domestic restraining order against him
16 that night. There were criminal charges that were brought.
17 There were arrest warrants that were issued. They were never
18 served because he was killed the next day. He gets up that
19 morning, Mr. Chisenhall and his daughter. They go to Wake
20 County because they were under the mistaken belief they had to
21 go to Wake County to get a domestic restraining violence order.
22 Protective order. They come back. Christian arrives at the
23 house. There is a series of 911 calls, and unfortunately,
24 after a confrontation between Mr. Chisenhall and Christian
25 Griggs, Christian Griggs tries to break in the front window.

2 He's shot and killed.

3 Now, the sheriff's department investigated, and this brings
4 us to some of the other motions and some of this pretrial
5 publicity stuff. And they are the ones who investigated this
6 incident top to bottom. And part of the problem with picking a
7 jury is the fact that, if you read my motion which is the
8 thickest one, that the plaintiffs have hired a public relations
9 person to go out there and spread all these stories and get a
10 week-long TV series, editorials in the paper, up until yesterday,
11 by a paid consultant. That's what it said.

12 MR. JESSUP: That's what who said?

13 MR. LEVIN: The article said that he was paid by the
14 Griggs.

15 MR. JESSUP: Tyler Dukes?

16 MR. LEVIN: No, John Camp, the one who got all the --

17 MR. JESSUP: The one who wrote the one op-ed.

18 MR. LEVIN: There are three.

19 MR. JESSUP: There are three op-eds. Okay. I had nothing
20 to do with that.

21 MR. LEVIN: I didn't say you did. Your clients did.

22 MR. JESSUP: And that's not -- okay.

23 MR. LEVIN: Your clients did.

24 MR. JESSUP: I don't have any knowledge of it.

25 MR. LEVIN: They engaged in a calculated campaign to bias

2 the jury against my client. Okay? And so that's why -- the
3 sheriff's deputies are the ones who made the decision whether
4 to prosecute this man and whether to refer it to the DA for
5 prosecution, and they are the ones who are going to testify
6 that they researched the law and they decided that the Castle
7 Doctrine fit in, so that's why I think generally the law is
8 that those things are not admissible due to unfair irrelevance
9 and probative value, but here it has a lot of probative value
10 because his client is out there on the courthouse steps at
11 every opportunity, yelling "Pat Chisenhall is a murderer" and
12 publishing it from every social media outlet that there is.

13 MR. JESSUP: Permission to respond to that, your Honor.

14 THE COURT: Sure.

15 MR. JESSUP: So some more to the story. First of all, we
16 do take issue that there was ever any domestic violence, and
17 that will be our evidence, that there was not, and that Katie
18 Griggs had a history of not being completely honest and saying
19 things that weren't right. Your Honor, the day of October 11,
20 Katie testified -- well, on September 10, before this, she said
21 that she suspected Christian of getting another girl's number
22 at a gas station, and at that point in time, she confronted
23 Christian and a separation ensued. Flash forward several weeks
24 later, October 11, the night before the shooting, Katie
25 testified that she was trying to get Christian to sign an

2 agreement that would give her sole custody of their daughter
3 Jaden. Was not agreeable to that. We think the evidence will
4 show that they wanted Christian dead because they wanted him
5 out of Jaden's life. They didn't want to deal with these
6 custody issues anymore, and particularly from Katie's
7 perspective, we think Katie might have told her father
8 untruthfully that she was sexually assaulted by Christian, and
9 that's a big point of contention in her deposition transcript,
10 your Honor. She says that the week of the shooting, Jaden was
11 sick. She called Christian to come help take care of Jaden,
12 she said, but she said the week before that, Christian came
13 over to her house and sexually assaulted her, but she never
14 told anybody, she never said anything about it until after
15 Christian was dead, and she was still communicating with
16 Christian during this time, having this custody spat.

17 With regard to the evidence, your Honor, six shots were
18 fired by Mr. Chisenhall. He did a re-enactment video where he
19 said that, immediately after the shooting, that Christian was
20 coming through a window and he fired all shots when he was coming
21 through the window, and he said he fired two or three times.
22 Well, then Christian goes to the medical examiner and they find
23 out he was shot six times, and four of those shots were shot into
24 his back while he was laying on the ground. Those were the fatal
25 shots. So with regard to the shell casings, police officers only

2 found three shell casings inside, and they said to Mr.
3 Chisenhall, how are there only three shell casings inside if you
4 fired all the shots from inside and you have shot six times and
5 there is only three shell casings? Moreover, your Honor, there
6 is no bullet holes in the windows that covered -- in the curtains
7 that covered the windows, the blinds that covered the windows,
8 there is no evidence of bullet holes in the frame of the window,
9 the walls, through the glass, there is no evidence of bullet
10 holes anywhere.

11 At that point in time, Mr. Chisenhall went and saw a
12 criminal defense attorney, and then the next day he went and
13 checked himself into Holly Hill, and at that point suddenly
14 couldn't remember anything about what happened anymore. My
15 clients feel that their son was murdered. That's my clients'
16 firm belief. They love their son. They think he was a fine man,
17 and contrary to the defense's efforts to slander his character,
18 which I think we'll see throughout the trial and successfully
19 rebut, he was a veteran. He was a scholarship student at NC
20 State, your Honor. He loved his daughter. He loved his family.
21 I think he was a fine young man, your Honor. And my clients do
22 believe their son was murdered, and they have been highly
23 frustrated for a long time that charges have not been brought,
24 that they have never been explained these irregularities with the
25 evidence at the scene, and they are desperate parents. They are

2 good folks, and they want to see justice for their son. So to
3 the extent, and I don't think my clients -- day one, the day this
4 happened, this was in the news, your Honor. This was on the news
5 the day of the shooting. It has been in the news ever since.
6 It's not that my clients were the ones who initially caused this
7 matter to be in the news. In violation of that protective order,
8 Mr. Levin filed sheriff's deputy deposition transcripts publicly
9 with the court and filed his client's deposition transcript
10 publicly with the court, and those things made it out in the news
11 as a result of what Mr. Levin did. Your Honor, my folks
12 responded to that. We responded to a lot of things. But I take
13 issue with a whole bunch of the stuff Mr. Levin just said. But
14 regardless, your Honor, the issue is, we're talking about, number
15 one, the fact that the defendant was not charged with a crime in
16 connection with the death of plaintiff's decedent. North
17 Carolina case law is clear. It's cited here. It says that you
18 don't let that in generally. I don't know of any cases where it
19 was let in because it's excluded under 403, and I put a whole
20 bunch of cases in that notebook showing that, your Honor.

21 THE COURT: So if he had been charged, the Castle Doctrine
22 might be a defense?

23 MR. LEVIN: Correct.

24 THE COURT: Would be asserted --

25 MR. LEVIN: Absolutely.

2 THE COURT: -- in a defense -- as a defense?

3 MR. LEVIN: Absolutely.

4 THE COURT: But it hasn't been charged, so it's --

5 MR. LEVIN: Well, it's a defense civilly.

6 MR. JESSUP: You didn't plead it.

7 MR. LEVIN: Yes, I did.

8 MR. JESSUP: No, you didn't. Look at your answer. You
9 never pled the Castle Doctrine. You only pled self-defense and
10 defense of others. You did not plead the Castle Doctrine, so
11 that's not an issue in this case.

12 MR. LEVIN: I have to check it.

13 MR. JESSUP: Well, I got the pleadings right here, your
14 Honor.

15 MR. LEVIN: Well, self-defense is encumbered with the
16 Castle Doctrine, I would argue to the Court. I mean, I would
17 think --

18 MR. JESSUP: They are separate statutes, separate jury
19 instructions, separate defenses under the law, your Honor. I
20 have your answer here, Robert, if you want it. Here's the
21 complaint and there is your answer.

22 MR. LEVIN: Yes, I did. Right there. Castle Doctrine.
23 If you're going to say I'm --

24 MR. JESSUP: Is that right?

25 MR. LEVIN: If you're going to say I'm a dodo --

2 MR. JESSUP: If I was wrong, I'm sorry, but we were
3 reading this this morning and we just saw defense of others.

4 MR. LEVIN: It says Castle Doctrine.

5 MR. JESSUP: All right. I'm the dodo. I apologize,
6 Robert.

7 THE COURT: Okay. So on your motion in limine, your first
8 one, defendant not charged in the crime in connection with
9 death of plaintiff's decedent, you're seeking to have that
10 information not put before the jury?

11 MR. JESSUP: Yes, sir, your Honor.

12 THE COURT: That he was never charged with a crime.
13 Doesn't mean you can't argue the Castle Doctrine as --

14 MR. LEVIN: Right, but the --

15 THE COURT: As to a defense.

16 MR. LEVIN: Absolutely. I agree with that. But I think
17 that the lead deputy who is going to be attacked unmercifully
18 by --

19 MR. JESSUP: We don't intend on attacking the deputies.

20 MR. LEVIN: Well, sure you do, about the investigation not
21 being a proper investigation and all that, which that's been
22 argued thus far. He came to the conclusion, based on his
23 review of the evidence, that the Castle Doctrine applied. So I
24 think the jury is entitled to know that. No more -- no
25 different than an investigating highway patrolman making the

2 decision about things if he is competent to testify. I mean,
3 because if this was the state prosecuting this man, they would
4 put on all of the detectives and all of the people who have
5 investigated with what the probable cause was because that's
6 what this basically is. It's a criminal trial without the
7 criminal penalty.

8 MR. JESSUP: Your Honor, the case law in North Carolina is
9 clear. This doesn't come in. The language that goes
10 throughout the cases is that, you know, a jury will, quote,
11 give undue weight to evidence that the defendant was never
12 criminally charged or convicted for his role in the incident at
13 issue, end quote. I would challenge Mr. Levin to give you one
14 case where it was admitted that the defendant was not
15 criminally charged with the incident at issue. I don't think
16 that case exists, but a whole bunch of cases exist saying, keep
17 that out.

18 THE COURT: I'll allow the motion in limine to keep that
19 out, but you will be able to use the Castle Doctrine as a
20 defense --

21 MR. LEVIN: All right.

22 THE COURT: -- to the offense that took place, as long as
23 it pertains -- we'll just stay away from, he was never charged
24 criminally.

25 MR. JESSUP: Yes, sir.

2 THE COURT: Because I think you're right, and I've seen
3 some of those cases in the past that the jurors will say, well,
4 he was never charged, and you know. Okay. I'm not going to --
5 you don't have one that I can mark on, do you?

6 MR. JESSUP: You can mark on that copy I handed you. Yes,
7 sir, your Honor. That's your copy there.

8 THE COURT: It's got a pretty blue stamp on it. I thought
9 it was official.

10 MR. JESSUP: I just got you a color copy to make it extra
11 nice.

12 MR. LEVIN: I can short-circuit number two. Well, not
13 number two. You can argue number two. Number three.

14 MR. JESSUP: Okay. Number two, your Honor, before
15 Mr. Griggs was deployed to Iraq, he took a urine test and
16 tested positive for marijuana. He then went and served his
17 country overseas and he came back with a whole bunch of medals.
18 It was a time the military was in contraction. He was
19 discharged as a result of that test, but it was an honorable
20 discharge and it was before he went to Iraq. I think that that
21 has no probative value in this case.

22 THE COURT: This is once tested positive for marijuana?

23 MR. JESSUP: Yes, sir. Before he was sent to Iraq, the
24 military gave him a drug test. He tested positive for
25 marijuana, went and fought overseas for his country, came back

2 with a bunch of medals and was honorably discharged as a result
3 of the positive drug test before he was sent overseas.

4 THE COURT: Any objection to --

5 MR. LEVIN: Yes, because that's not true. He was given a
6 general discharge based on his drug use.

7 MR. JESSUP: Here we go, your Honor. These are the
8 discharge papers. Character of service and discharge, says
9 honorable, and then up here, you have the medals earned.

10 MR. LEVIN: I have the form that says general discharge.

11 MR. JESSUP: Well, this form says honorable discharge.

12 THE COURT: Narrative reads separation, misconduct, drug
13 abuse.

14 MR. JESSUP: And the character of service, honorable,
15 which is beside that.

16 MR. LEVIN: But this is not the document that says it's a
17 general discharge. That was produced.

18 THE COURT: This one says --

19 MR. JESSUP: If you look at the next, it says general
20 under honorable conditions.

21 MR. LEVIN: Yeah, it was general under honorable
22 conditions. I don't disagree with that. But that's different
23 than an honorable discharge because you're not eligible for GI
24 benefits, for example.

25 THE COURT: Well, there's a DD214, just says honorable,

2 doesn't it? On the backside, there is a memorandum in here.

3 MR. JESSUP: Yeah, and they checked the box for general
4 under honorable conditions on that memorandum.

5 THE COURT: Was that a mistake or is that accurate? Is
6 that what they do?

7 MR. JESSUP: I think it's unclear, your Honor. The
8 official certificate says honorable and the paperwork they
9 filled out says general under honorable conditions, but I'm not
10 sure that matters as to whether or not you keep out the fact
11 that he tested positive for marijuana one time before he went
12 to Iraq.

13 THE COURT: I would be inclined to keep it out.

14 MR. LEVIN: Well, your Honor, but wait a minute, because a
15 general discharge is different than an honorable discharge.
16 And he left early. And it all goes to credibility of the
17 parents because they said they didn't know the reason in the
18 deposition for the discharge. Well, it was through the drug
19 use. And it was more than one positive test. So you are
20 taking -- there is no evidence of this retraction in the
21 record. I mean, this is --

22 THE COURT: Was there any evidence of his drug use having
23 any effect on the events of this evening, whenever it was?

24 MR. JESSUP: Toxicology came back negative, your Honor.

25 MR. LEVIN: There was no drug screen done.

2 MR. JESSUP: He was screened for alcohol. It came back
3 negative, and there was no other substances noted in his body
4 in the autopsy.

5 THE COURT: No THC or --

6 MR. JESSUP: No, sir, your Honor.

7 MR. LEVIN: They didn't do any tests.

8 MR. JESSUP: Well, there is absolutely no evidence he was
9 under the influence of drugs on that day.

10 MR. LEVIN: The drug use goes to his -- and the reason for
11 his discharge goes to the relationship between the parents.
12 It's incredibly important because they testified in their
13 deposition that they didn't know why he was discharged.

14 MR. JESSUP: And they didn't until I showed them this
15 paperwork.

16 MR. LEVIN: Well, how come in their statement to the
17 police, they said it was due to drug use?

18 MR. JESSUP: I'm not sure they said that.

19 MR. LEVIN: Well, in the initial statement in the
20 sheriff's file, it says, due to drug use. So it goes to their
21 credibility, your Honor.

22 MR. JESSUP: Your Honor, I still think that's a very --
23 that's not their words, A. Police officer might have wrote
24 that. Police officers wrote a lot of things about Katie
25 getting the gun and a whole bunch of things that weren't

2 accurate in that file.

3 MR. LEVIN: They initialed it.

4 MR. JESSUP: Your Honor, I would still say the fact he
5 once failed a drug test for marijuana before he went to Iraq,
6 and then served his country honorably and got honorable
7 discharge from the military, I would say, your Honor, that
8 should be kept out under 403.

9 MR. LEVIN: It's not just once. It's not just once. And
10 it also goes to the fact if you get a general discharge, you're
11 not eligible for GI benefits, so to the extent there will be
12 any argument to this jury about future lost wages, economic
13 loss, then it is relevant, your Honor.

14 MR. JESSUP: When was the other time?

15 MR. LEVIN: May I get the --

16 THE COURT: Sure.

17 [Mr. Levin left the room and returned]

18 MR. LEVIN: Sergeant Christian Griggs was evaluated at Ft.
19 Gordon Army -- this is dated 18 May, 2012. Was evaluated at
20 the Ft. Gordon Army substance abuse program on 18 April, 2012
21 as a self-referral. Says the referral was changed to referral
22 due to new information obtained. It says he was enrolled and
23 given a diagnosis of alcohol dependence and cannabis dependence
24 in remission by the physician. He self-reported relapse on 2
25 May, 2012, and was medically recommended for the treatment

2 residential facility at Eisenhower Army Medical Center. He
3 entered the program on 7 May, 2012, was discharged unsuccessful
4 on 17 May, 2012 for failure to comply with the requested
5 assignments and behavioral changes. So this is one year before
6 the incident.

7 MR. JESSUP: I have not read that page, your Honor,
8 truthfully, but I would move to exclude that as a part of this,
9 your Honor. Again, there is absolutely no evidence he was
10 under any -- under the influence of anything when he was shot
11 four times in the back, and that evidence is far more
12 prejudicial than probative. The issues in this case are pretty
13 straightforward. They pertain to the shooting, what happened
14 the day of the shooting, the time around the shooting. These
15 events are temporally remote. They are removed from it. And I
16 don't see how they have any probative value.

17 THE COURT: What was the date of the shooting?

18 MR. JESSUP: October 12, 2013.

19 THE COURT: 2013.

20 MR. JESSUP: Yes, sir, your Honor.

21 THE COURT: So your motion in limine is to exclude any
22 evidence or argument that plaintiff's decedent once tested
23 positive for marijuana on the drug test?

24 MR. JESSUP: Yes, sir, your Honor, and the fact that Mr.
25 Levin just read that record, which I have not read, that

2 military file is rather large. I would also move to exclude
3 any prior evidence of marijuana use years before the date of
4 the shooting as there is absolutely no evidence he was under
5 the influence of anything on the date of the shooting.

6 THE COURT: All right. I'll allow the motion to exclude
7 based on Rule 403.

8 MR. LEVIN: Well, am I allowed to talk about the reasons
9 for his discharge? I mean, he was discharged for drug abuse.
10 I mean, I think that's very pertinent to his economic loss.
11 How can you distinguish between the two? I mean, I can
12 understand if it was just one drug screen, that nothing came of
13 it, but this man was discharged from the United States Army
14 before the end of his service. I mean --

15 THE COURT: So is there a motion or a practice to
16 bifurcate this trial if it goes into, you get damages, and then
17 go into punitives?

18 MR. JESSUP: We had not made that motion previously, your
19 Honor, but we can make that motion and agree to that. That's
20 fine.

21 THE COURT: Because if the jury found -- if it goes to
22 economic loss, I think it could be determined during the --

23 MR. LEVIN: But that wouldn't be during the punitive
24 phase. That would be during the initial phase.

25 MR. JESSUP: We're withdrawing our claim for punitive

2 damages. We just want regular wrongful death damages.

3 MR. LEVIN: Okay. That's fine.

4 MR. JESSUP: And we would like, and I don't think -- I
5 don't see how that even goes to damages, because at the time he
6 was killed, he was on a scholarship at NC State, he was doing
7 well in school, and he was discharged honorably, your Honor.
8 If anybody got anything, they are going to see an honorable
9 discharge. He was well-decorated with a whole bunch of medals;
10 commendation medal, good conduct medal, national defense
11 service medal, global war on terrorism medal, Iraq campaign
12 medal with campaign star, Army service ribbon. I mean, he had
13 earned all that in the year after that initial test for
14 marijuana. I mean, and your Honor, marijuana is legal in most
15 of the country, and attitudes are changing towards it. I
16 understand they haven't changed everywhere, but I feel like
17 that a lot of jurors will unduly hold the fact that Mr. Griggs
18 at some point in his past used marijuana against him. I think
19 that probative value is very, very low and the prejudicial
20 value is very, very high. Again, particularly since he wasn't
21 on anything, or there is no evidence he was on anything the day
22 of the shooting. So if we, and if we can bifurcate damages and
23 liability, I'm fine with that, if that's what we need to do to
24 address that.

25 MR. LEVIN: I don't particularly want to bifurcate. I

2 don't want to make this any longer than it necessarily has to
3 be, but it seems to me the jury is entitled to know why he left
4 the service.

5 THE COURT: Well, if you bifurcated the damages, it would
6 be more likely to allow you to go into his prospects down the
7 road based on his history as to the loss of wages or earning
8 abilities, so forth. I don't necessarily want to drag it out
9 either.

10 MR. JESSUP: Yes, sir, your Honor.

11 THE COURT: But I want to keep the liability phase clean.

12 MR. LEVIN: But it goes to the credibility of the parents
13 because he left the service early. I can go show you in the
14 notes where Mr. Griggs initialed it, saying the reason that he
15 left was because of drug use. So he knew. Yet in his
16 deposition taken three years later, he said no, we never talked
17 about it. I didn't know why Christian left the Army early.
18 But your Honor --

19 THE COURT: So you are -- you want to ask the parents
20 about it?

21 MR. LEVIN: Absolutely. And this close relationship that
22 they pretend to have. I mean, if you don't want to say
23 marijuana, but I think the jury is entitled to know that he was
24 discharged from the service early.

25 MR. JESSUP: Under honorable conditions.

2 MR. LEVIN: It was general.

3 MR. JESSUP: It was an honorable discharge with a whole
4 bunch of medals for serving his country.

5 THE COURT: Well, you can say general discharge under
6 honorable conditions, but based on drug use.

7 MR. LEVIN: Right. And the medals will come out.

8 MR. JESSUP: But that's more prejudicial than marijuana,
9 your Honor, because when you say "based on drug use", people
10 think heroin, cocaine, I mean, that's even worse, your Honor.
11 I really think that the probative value of this is extremely
12 low and the prejudicial effect of this is extremely high, your
13 Honor.

14 MR. LEVIN: It paints an incomplete picture of the
15 decedent and it casts doubt on the credibility of the parents.

16 THE COURT: You certainly could ask the parents about it.

17 MR. LEVIN: I can?

18 THE COURT: You can ask them -- well, you have asked them
19 already on deposition?

20 MR. LEVIN: I have.

21 THE COURT: Why he was discharged?

22 MR. LEVIN: I did. They said they didn't know. Never
23 talked about it.

24 THE COURT: And what was the other statement they made
25 that you said was contradictory?

2 MR. LEVIN: They didn't know the reason for the discharge.

3 THE COURT: But that was a question put to them by whom?

4 MR. LEVIN: The detective.

5 MR. JESSUP: It was the detective's notes.

6 MR. LEVIN: No, it's a statement that he signed and
7 initialed. I'll be glad to bring it in if you want to see it,
8 your Honor. I'm not making it up. It goes to the heart of the
9 relationship between these folks, the parents and their son.
10 If they are going to get up there and say they were a
11 close-knit family, fine, but you know, in the deposition, you
12 don't know what you are under oath, taken three years
13 afterwards, and then the day of the incident, you sign a
14 statement saying that he was discharged due to drug use.

15 THE COURT: The parents did that?

16 MR. LEVIN: Yes.

17 THE COURT: They signed a statement?

18 MR. LEVIN: Yes.

19 THE COURT: When they were interviewed by the sheriff's
20 department?

21 MR. LEVIN: Correct. The jury will hear about the medals.

22 MR. JESSUP: I still think it's highly, highly
23 prejudicial, very little probative value.

24 THE COURT: Well, let me hold that one for a minute.

25 Let's see what else we got.

2 MR. JESSUP: Number three, your Honor, says there is
3 absolutely no evidence that plaintiff's decedent was under the
4 influence of alcohol, drugs or any other substances on the day
5 he was killed. The defense should be barred from arguing or
6 suggesting to the contrary.

7 MR. LEVIN: I don't have a problem with that.

8 THE COURT: Okay. We'll allow that one.

9 MR. JESSUP: Number four says, there is absolutely no
10 evidence that plaintiff's decedent suffered from a psychiatric
11 condition on the day of his death. The defense should be
12 barred from arguing or suggesting to the contrary.

13 MR. LEVIN: I do have a problem with that. That's not a
14 true statement. There will be evidence about this, his
15 psychiatric history. Without showing my hand too much, I will
16 again defer to the Department of Army records and Mr. Griggs'
17 statement where he talks about having anxiety and panic attacks
18 on his discharge from the Army, and we have some other evidence
19 about that. So that's not true.

20 MR. JESSUP: Can I see what you are referring to, Robert?

21 MR. LEVIN: Yeah. Suffers from anxiety. I have
22 experienced panic attacks. I have trouble sleeping every
23 night. I have been to RTF for counseling. One positive. This
24 is the drug in 2010.

25 MR. JESSUP: Okay. So this was one record saying he has

2 anxiety and panic attacks from years before this, right after
3 he saw his friends get blown up by an IED. There's nothing
4 indicating he was suffering from any psychiatric condition
5 years later on the day of the shooting, your Honor. There is
6 absolutely no evidence that he was suffering from any
7 psychiatric condition on the day of the shooting.

8 MR. LEVIN: Your Honor, that's not true, and we have
9 evidence to that.

10 MR. JESSUP: What is the evidence?

11 MR. LEVIN: I'm not going to tell you now because I'm
12 going to impeach your client. And I think that we have a
13 spoliation issue because they have not produced one medical
14 record of the plaintiff's decedent in this lawsuit. Ever.
15 Ever. Despite their being asked.

16 MR. JESSUP: I thought we had.

17 MR. LEVIN: No.

18 MR. JESSUP: But if we haven't...

19 MR. LEVIN: Nope. Not one medical record.

20 THE COURT: All right. For the time being, I'll deny
21 that. Number four.

22 MR. JESSUP: Okay. Thank you, your Honor. The next
23 thing, your Honor -- apologize. I was trying to find it. I'll
24 hand you a copy. These incident reports from Georgia that Mr.
25 Levin was talking about earlier. These reports, your Honor,

2 are from years before the shooting, back in 2012. They are
3 based upon what Katie and Christian, and it's not clear who
4 told officers what when, told police officers, then those
5 officers wrote down. Neither of these events resulted in an
6 arrest or any criminal charges. They left Mr. Griggs in the
7 home with Katie after both of these events, your Honor. Left
8 firearms in the home. There was nothing to ever come of these,
9 your Honor. These are temporally removed from the events at
10 issue. Years before the shooting. Again, they don't have any
11 probative value on the issues in this case, your Honor, and
12 they have a very high likelihood to prejudice the jury against
13 Mr. Griggs, so I would move to keep those out under Rule 403,
14 and to the extent parts of them come in, there is hearsay
15 within hearsay inside of these police reports that I would say
16 should be excluded, but I think the whole thing should be kept
17 out under 403, your Honor.

18 THE COURT: What would be your argument to admit it under
19 404B?

20 MR. LEVIN: It's not years before. It's one year before.
21 Barely one year before. And to the extent that my client knew
22 of the history of the potential domestic violence, it's
23 incredibly relevant to his state of mind, whether he feared for
24 his life on the date in question, and the evidence will be that
25 he knew about it.

2 MR. JESSUP: Well, I asked him all incidents of violence
3 he knew about at his deposition, and he did not mention those,
4 and I referenced that in this motion.

5 MR. LEVIN: No, your question did not -- I've read your
6 question. Your question was not as to other incidents that
7 would cover this incident, I would argue, so I think it is
8 relevant if Mr. Chisenhall is going to testify that he knew
9 about it, and it's only a year before. This is -- remember,
10 our incident occurred in October of 2013. This was in May, a
11 year and a half before, when they were living -- or in
12 September, so 13 months before. There were two incidents. One
13 was in May and one was in September. And certainly, if you
14 read what the description was about using a gun, he stated he
15 had the weapon out to scare his wife and had no other intention
16 to use it in any other manner. He was depressed after coming
17 back from overseas and battling an addiction problem as well as
18 separation from his wife, so they took away the gun. Why they
19 didn't take him away, I guess that was in their judgment. I
20 wasn't there. I don't know. But I think it has a lot of
21 probative value, especially when you are dealing with the
22 Castle defense, which goes to the state of mind of the shooter
23 when the person is coming into your house and what their
24 presumption of fear is.

25 MS. UGOLICK: Your Honor, if I may. If Mr. Chisenhall was

2 so upset about these incidents, and when he was asked about
3 them at his deposition, even though he wasn't asked
4 specifically about this incident that happened in 2012 or
5 whatever, in Georgia, you would think, you know, the daughter,
6 if it was your daughter, that would come to your mind if you
7 were really so concerned about it. And your Honor, after this
8 happened, Pat Chisenhall gave guns back to Christian. He
9 allowed Katie to continue to live with Christian after these
10 incidents.

11 MR. LEVIN: The question hasn't been asked of Mr.
12 Chisenhall as to when he heard about it, whether he heard about
13 it that night. You have to remember that they had a very close
14 relationship. There were friendly emails between the parties,
15 the decedent and my client, through June of 2013. So it is not
16 out of the realm of believability or possibility that my client
17 thought very highly of Christian Griggs. So for him not to
18 take any action, I don't think that's unusual, but the question
19 is whether or not that these incidents entered the mind of Mr.
20 Chisenhall at the time of the shooting, and I think the jury
21 should be able to hear that because this wasn't just some
22 out-of-the-blue incident without any prior history of law
23 enforcement being called. If Mr. Chisenhall knew about it, and
24 that was entering his mind as Mr. Griggs was going through the
25 window, then that's all part of his beliefs and what he was

2 thinking.

3 MR. JESSUP: Your Honor, I think I spent close to four
4 hours, three or four hours deposing Mr. Chisenhall, and I tried
5 to box him in on every possible event he could remember, and if
6 I -- I might have slightly asked a question, and I can't
7 imagine I did, or didn't cover everything, it was quite clear
8 this wasn't on his mind, and there is no evidence that he knew
9 about it from that deposition testimony, and I don't see how --
10 granted, his testimony has changed a lot. He remembered the
11 shooting; now he can't remember the shooting. Who knows what
12 he is going to say at trial. But I think there is a lot to
13 suggest that he says whatever is convenient for him at the
14 time.

15 THE COURT: All right. I'll allow the motion on that one.
16 That was number five.

17 MR. JESSUP: I think for the remainder of our motions, me
18 and Mr. Levin generally agree on most of them. There is little
19 caveats that I think Mr. Levin would like to add in, but these
20 are my general motions I make about every case I try, your
21 Honor. Six through fourteen. Number six is essentially no
22 evidence of the impact an adverse verdict might have on the
23 defendant. That's 6A.

24 MR. LEVIN: Right. I have no problem with that.

25 MR. JESSUP: 6B is any adverse consequences on the

2 defendant that might result from a verdict for the plaintiff.

3 MR. LEVIN: I don't have any problem with any of six.

4 MR. JESSUP: Okay.

5 MR. LEVIN: Can I ask a quick question about five?

6 THE COURT: Sure.

7 MR. LEVIN: So does that preclude Katie from talking about
8 the incident in 2012, or her mother?

9 THE COURT: You mean this incident in Georgia?

10 MR. LEVIN: Yes.

11 THE COURT: If you can tell me how it's probative to the
12 issue in this case.

13 MR. LEVIN: Well, I mean, it just seems to me that if
14 Katie was aware that her husband had threatened her with a gun,
15 even if it was just for purposes of scaring, and it goes into
16 her thought process as calling 911, not once, but twice before
17 the shooting, and running into a closet.

18 MR. JESSUP: She is not the defendant though. She is not
19 the one whose conduct matters.

20 THE COURT: It would really matter if she was a defendant.

21 MR. LEVIN: All right. So if I understand, the reason
22 you're granting the motion is because it's remote, or you don't
23 think it has any value, or Mr. Chisenhall didn't know about it,
24 because, I mean, it seems to me if he knew about it, then it
25 does have probative value.

2 THE COURT: Well, he has given various statements about
3 that, right?

4 MR. LEVIN: No.

5 THE COURT: No?

6 MR. LEVIN: We have to look at the questions that were
7 asked before you can say -- and if you want to take the time to
8 read the deposition, I mean, because it seems to me that's a
9 subject of, okay, impeachment. If Mr. Jessup thinks he asked a
10 question and Mr. Chisenhall didn't admit to it, then that's
11 something that you would attack somebody on. Well, you didn't
12 say anything about it back in 2016. I don't think he asked the
13 question that it was phrased as much, because I read through
14 the transcript to see whether or not this was mentioned. It
15 wasn't. But then I looked at the question, and I don't think
16 he asked, no.

17 MR. JESSUP: I didn't ask one question. I asked three or
18 four hours of questions.

19 MR. LEVIN: But not about --

20 MR. JESSUP: He never brought it up. And he could
21 remember what happened, and then he couldn't remember what
22 happened. He says what's convenient for him at the time, your
23 Honor. 403 keeps this out. I think we have already addressed
24 this.

25 THE COURT: All right. I'm going to leave it as it is.

2 MR. LEVIN: Okay. Note my objection.

3 MR. JESSUP: Seven is any references to verdicts or
4 settlements and similar actions or the amount thereof. I think
5 me and Robert agree on that.

6 MR. LEVIN: We do.

7 MR. JESSUP: Number eight --

8 THE COURT: We show that one allowed?

9 MR. LEVIN: Yes.

10 THE COURT: Seven?

11 MR. JESSUP: Yes, your Honor. Number eight, I think me
12 and Robert have a slight disagreement as many plaintiff's
13 attorneys and defense attorneys do. I've argued over this one
14 before and I have found that most judges already have their way
15 of doing things, so I would, of course, defer to you, your
16 Honor, but number eight says any examination of witnesses,
17 either through direct or cross examination by defendant's
18 counsel with the use of documentary evidence if the evidence is
19 published, read or referenced to the jury, but not offered into
20 evidence. It's my contention, your Honor, that the language of
21 Rule 10 of the General Rules of Practice mean that if the
22 defendant at all uses documentary evidence, that he has waived
23 last close.

24 THE COURT: And your position?

25 MR. LEVIN: I think that I just can't go up to a witness

2 and show somebody a piece of paper without the Court saying,
3 you need to mark that as an exhibit. So I don't quite --

4 MR. JESSUP: I think you --

5 MR. LEVIN: I don't have to introduce anything. I mean, I
6 plan on putting on evidence, so I think this is kind of a moot
7 point.

8 MR. JESSUP: Okay.

9 THE COURT: You plan on -- say again?

10 MR. LEVIN: Presenting evidence.

11 THE COURT: Okay.

12 MR. LEVIN: So I think this is a moot point. But I don't
13 think showing a document to a witness introduces it. I've
14 never had a court say that that causes me to waive the last
15 argument.

16 MR. JESSUP: I don't think showing it is a problem. It's
17 reading from that document where it becomes a problem.

18 MR. LEVIN: Well, I would disagree that that's a problem,
19 but --

20 THE COURT: Well, if you show it to the witness, it's
21 going to get referenced to the jury anyway, unless it's a voir
22 dire.

23 MR. LEVIN: Right. That's right. So I don't see the
24 difference between having them read it or me read something.

25 THE COURT: Well, there is a recent case, I believe, that

2 if you do something like this that the jury hears, you would be
3 considered to have put on evidence if it puts information
4 before them that they didn't otherwise have.

5 MR. JESSUP: That's my --

6 THE COURT: I can't cite the case, but there is a case, at
7 least in the criminal world, that's like that.

8 MR. LEVIN: Well, I plan on presenting evidence, to let
9 the Court know.

10 THE COURT: Okay. I'm going to show this one allowed.
11 Number eight.

12 MR. JESSUP: Thank you, your Honor. Nine is Rule 408. I
13 think me and Robert agree that Rule 408 applies and exists. Is
14 that a correct statement, Robert?

15 MR. LEVIN: Yep. Yep.

16 MR. JESSUP: Ten, this is just the Miller case, your
17 Honor. No direct accusations or statements that defendant's
18 attorney believes that plaintiff, plaintiff's counsel or any
19 witness is not telling the truth. Of course, you can impeach
20 and all this other stuff, but this is just limited to the
21 Court's ruling in Miller.

22 THE COURT: Okay. Allowed on ten.

23 MR. JESSUP: Eleven.

24 THE COURT: Well, allowed on eleven. In the old days,
25 there was some mistrials -- there was some that could have been

2 mistrials, but they got away with it in the old, old days. I
3 kept you here to midnight for you to decide. You know. I
4 don't think people do that anymore. I hope not, because it
5 would result in a mistrial if they did.

6 MR. JESSUP: Twelve is one I make at every case, your
7 Honor, and there is some stuff in there that doesn't apply to
8 this case, but generally it's a motion that, by following the
9 law, rules of procedures, evidence or general practice that
10 plaintiff or plaintiff's counsel was in any way doing anything
11 inappropriate, unfair, trying to hide facts or evidence. For
12 example, I think what I put in this case, A, making objections.
13 B, failing to call a witness when the defendant can call that
14 same witness. C, failing to admit certain exhibits, medical
15 records, other evidence when that same evidence could be
16 presented by the defendants. D, using redacted exhibits, or E,
17 demanding the defendant to redact exhibits. F, G and H don't
18 apply in this action. I'm withdrawing those, your Honor. But
19 A through E.

20 THE COURT: Any response?

21 MR. LEVIN: I think, in closing argument, I'm certainly
22 allowed to argue who they didn't call or who they did call. I
23 don't think there is anything wrong with that. The others, I
24 don't have any objection to.

25 THE COURT: I'll tell you this. In my experience, that's

2 routinely done.

3 MR. JESSUP: Yes, your Honor.

4 THE COURT: Witness so-and-so, where is your witness?

5 MR. LEVIN: Yeah.

6 THE COURT: Do you see any witness? Witness wasn't
7 called. Lawyers argue that all the time.

8 MR. LEVIN: I think they do.

9 THE COURT: We'll allow the motion except for 12B.

10 MR. JESSUP: Thank you, your Honor.

11 THE COURT: And then F through G, or F through H are
12 withdrawn.

13 MR. JESSUP: I think 13, me and Mr. Levin agree NC PI
14 150.2 says the Court has no opinion. Court should exclude any
15 argument or implication that the Court does have an opinion.

16 THE COURT: It's in the jury instructions too.

17 MR. JESSUP: Yes, sir, your Honor. Fourteen, I think me
18 and Mr. Levin agree, any argument that plaintiff or plaintiff's
19 counsel is motivated by greed or profit.

20 THE COURT: That one is also allowed.

21 MR. JESSUP: With respect to Mr. Levin's motions, your
22 Honor, I'll short-circuit for you, there is only one I disagree
23 with. I agree with his motion in limine number one, his motion
24 in limine number two --

25 THE COURT: Wait a minute.

2 MR. JESSUP: I'm sorry, your Honor.

3 THE COURT: Number two has to do with racial
4 discrimination?

5 MR. JESSUP: Yes, your Honor. We're not going to argue
6 that.

7 THE COURT: Okay. I want to make sure. He has got
8 several of them stacked up here.

9 MR. JESSUP: Yes, sir, your Honor.

10 THE COURT: So allowed on one, allowed on two.

11 MR. JESSUP: Yes, sir, your Honor. Number three is to
12 prevent us from calling the Harnett County sheriff's department
13 corrupt, to bring up other cases. We don't intend on doing
14 that, your Honor. We agree to that.

15 THE COURT: Okay.

16 MR. JESSUP: Four pertains to keeping the plaintiff or
17 others from mentioning or discussing plaintiff's efforts to get
18 governmental entities to investigate the shooting. We'll agree
19 to that, your Honor. We don't see why that would be probative.
20 Number five is one I take a lot of issue with, so I'll come
21 back to that, but I can agree to number six, your Honor, with
22 regard to Katie Griggs shoplifting. It was expunged. I think
23 under Rule 609, it's properly excluded, so I'll agree that we
24 won't bring up that she was convicted of shoplifting. And I'll
25 agree --

2 THE COURT: So that was expunged anyway? I see that here.

3 MR. JESSUP: Yes, sir, your Honor. Number seven, we'll
4 agree to -- we're not going to be talking about insurance. So
5 the only one we don't agree with is number five, and that is
6 Mr. Levin's motion to keep out Katie Griggs' text messages.
7 There is only a certain number of text messages we wish to
8 admit, your Honor, and I can hand you a copy of those. The
9 night before the shooting, as we said, our evidence is going to
10 be that Katie was consuming alcohol with an Angier police
11 officer and a sheriff's deputy and that Christian was upset
12 about that. The defense's evidence is going to be that
13 Christian showed up and tried to pull out a window unit and was
14 violent, and that the sheriff's deputy, or the sheriff's
15 employee and the Angier police officer weren't there. Your
16 Honor, this is our best evidence of what happened the night
17 before, and it's really what we're relying on, that Ms. Griggs
18 was drinking alcohol with these two individuals that night.

19 If you will go to the second page, there is a series of text
20 messages between her and Russ. She testified that Russ is
21 Amber's husband. Russ is an Angier police officer.

22 MS. JACKSON: Former.

23 MR. JESSUP: Former police officer.

24 THE COURT: Russ is?

25 MR. JESSUP: Russ is, yes, your Honor. And these text

2 messages are about them discussing masturbation and getting
3 together and consuming alcohol later together that evening, and
4 that is highly relevant to what was going on the night before.
5 To the extent the defendant wants to talk at all about what
6 happened on October 11, I think these text messages are highly,
7 highly relevant because they go to what Mr. Griggs walked in
8 on, and he is not here to tell his story, your Honor, and Katie
9 is, and Katie says that she wasn't drinking alcohol, she wasn't
10 hanging out with these people, but these text messages tell a
11 different story, your Honor, and I think that's extremely,
12 extremely relevant. Now, if the defense doesn't want to talk
13 at all about what happened on October 11, the night before,
14 then I've got no problem with these not coming in, but to the
15 extent they want to talk about what happened on October 11, the
16 interactions between Katie and Christian, I think these text
17 messages are extremely, extremely relevant, your Honor.

18 MS. JACKSON: These are materials from the criminal
19 investigative file.

20 THE COURT: The day before the shooting.

21 MR. LEVIN: Correct. Correct.

22 MR. JESSUP: Yes.

23 MR. LEVIN: There is absolutely no evidence that Katie was
24 impaired or even drinking, for that matter.

25 MR. JESSUP: Except for these text messages.

2 MR. LEVIN: And this doesn't say they were drinking.

3 MR. JESSUP: They were planning to get together and drink.

4 MR. LEVIN: Well, planning and getting together are two
5 different things.

6 MR. JESSUP: Well, they don't show those plans changing.

7 THE COURT: Okay. I'll allow the motion on that one.
8 That's number five.

9 MR. JESSUP: So you are excluding the messages from
10 evidence?

11 THE COURT: Correct. Lack of probative value and higher
12 on the 403 prejudice.

13 MR. JESSUP: Mr. Levin's other motions, I'll let him
14 argue, your Honor, but I would object to these motions. Just
15 for the record, I was not served with these motions until this
16 morning, and they were not served on me in accordance with
17 Rules 5 and 6, at least two business days before. The first I
18 ever saw these was this morning. That's a motion to exclude
19 and the one just generally titled motion, but regardless, your
20 Honor, at lunch, I used my cell phone to research these, so I
21 might have to look at my cell phone during argument to look at
22 cases I pulled up, but I am prepared to argue them. I just
23 wanted it for the record that these were not served in
24 accordance with Rules 5 and 6 on me.

25 MR. LEVIN: Didn't finish them until last night, and I

2 don't believe I ever -- you did send them to me on Thursday,
3 but I don't believe I've ever gotten pretrial motions in limine
4 before coming to court on Monday morning.

5 MR. JESSUP: I was not referring to the motions in limine.
6 I was referring to motion to exclude, the motion for
7 sequestration.

8 MR. LEVIN: Well, the sequestration, I was literally
9 typing that. I apologize for any typos.

10 THE COURT: Is that the big one here?

11 MR. LEVIN: That's the big one.

12 THE COURT: Okay. So we're looking at the motion to
13 exclude.

14 MR. LEVIN: Yeah, and we're looking to the motion to
15 exclude first, which is really a motion in limine. I just
16 didn't title it that. But in any event, this all goes to this
17 Lauren Scott, who's the medical examiner who conducted the
18 autopsy in this case. You've already heard some statements
19 about the decedent supposedly being on his back or being on all
20 fours at the time of the shooting of the four bullets, but
21 unless I'm mistaken, in the official autopsy report issued by
22 the state of North Carolina, that is not in there. What
23 happened was that, during the course of this litigation,
24 Ms. Scott signed an affidavit that was prepared by opposing
25 counsel several years after the fact. During the time of the

2 autopsy, she didn't ask for any further evidence. She didn't
3 ask to see the clothing, didn't ask to see the shoes, she
4 didn't ask to see anything. She came to her conclusion as to
5 the shots, two in the front, four in the back, but she came to
6 no conclusion about how those shots were accomplished, and I
7 don't believe, under our law, that she can. And I hand you the
8 State v. Daughtridge case, a 2016 court of appeals criminal
9 case, and I've set forth in the motion the rationale, which I
10 think it's right on point. Ms. Scott -- Dr. Scott, rather, she
11 conducted no independent investigation as to what happened in
12 this case, and by statute, she is limited to what she can do.
13 She can determine the cause of death as being a homicide, a
14 suicide or an accident. She declared it to be a homicide. Of
15 course, it's our contention this was a homicide as permitted by
16 law, i.e. self-defense, but in terms of how the shots happened,
17 where he was at the time, she had never been to the house. All
18 the information that she's obtained, she got from the sheriff's
19 deputies who investigated this case. And as the doctor
20 indicates, clearly indicates, she is not competent to make any
21 determination other than the cause of death. So I think the
22 law is pretty clear that she cannot testify as an expert
23 witness. And this Court is the gatekeeper under the Daubert
24 standard, which has been adopted in North Carolina under the
25 McGrady case, you have to keep that out. That's it, in a

2 nutshell.

3 MR. JESSUP: Your Honor, I'll give you a few documents.
4 Lauren Scott is the associate chief medical examiner for the
5 state of North Carolina. She testifies in cases on nearly a
6 weekly basis and has never been excluded, based upon my
7 conversations with her, in a North Carolina court from talking
8 about the cause of death. This is her affidavit, your Honor.
9 This is a copy of her autopsy report. Ms. Scott, unlike the
10 medical examiner in the case that Mr. Levin cited, and this
11 Daughtridge case, the medical examiner there was basing her
12 opinion that something was or was not a suicide, based upon the
13 investigation and evidence outside of medical evidence. We
14 only want Doctor Scott to testify to medical evidence, your
15 Honor. We want for her to testify as to the trajectory of the
16 bullets and we want her to testify as to what shots were fatal,
17 and we want her to testify as to the manner and cause of death
18 as explicitly stated that she can testify to in North Carolina
19 General Statute 130A-385 that Mr. Levin cited in his motion.
20 If you will see here in paragraph five, in this case, Doctor
21 Scott was not given -- in her affidavit, she was not given the
22 decedent's clothing. She was not given a report of
23 investigation or incident report from law enforcement. All of
24 her opinions in this case come solely from her medical
25 examination of the decedent, and it is her opinion that, based

2 upon the trajectory of the bullets, that he was in a prone
3 position, either laying facedown on the ground or bent over on
4 his hands and knees like a dog, when the defendant fired four
5 bullets into his back with a hunting rifle. Now, she says in
6 here that's not self-defense. Your Honor, that's not some
7 expert opinion. That's common sense. So to the extent that
8 any extrapolation of the medical evidence, that is basic common
9 sense. I don't understand, and I've never heard of excluding a
10 medical examiner from testifying as to cause of death, your
11 Honor, and I don't think that's warranted here. Particularly,
12 and she is not working for us, your Honor. She works for the
13 state of North Carolina. She is a public servant. And this is
14 not some hit job expert we paid off the street, your Honor.
15 This is the associate chief medical examiner for the state of
16 North Carolina, your Honor.

17 THE COURT: You say in her affidavit she said she had no
18 clothing and the other items?

19 MR. JESSUP: Yes, sir. Paragraph five, your Honor. She
20 relied on nothing in formulating her opinion except the medical
21 evidence.

22 THE COURT: Okay. Second page. Okay. Your objection is
23 that she shouldn't -- am I correct that you're saying that she
24 should not be allowed to testify it was a homicide?

25 MR. LEVIN: No, she can testify it's a homicide. That's

2 fine.

3 THE COURT: But not the manner --

4 MR. LEVIN: But she can't say that it's generally
5 inconsistent with the claim of self-defense. She has no more
6 training about that than anybody else. How can she say it's
7 self-defense? She wasn't there. And she doesn't have any
8 knowledge about anymore than anybody else. That's just her
9 opinion. And it's not based on anything scientific. Because
10 it says that he was bending or lying down. Well, of course,
11 the decedent was bending over because if he is breaking into
12 the window, and if you see the pictures of the window, he is
13 bending in to get in, and that's when he is shot. That's
14 common sense, too. But again, what's the basis of her saying
15 that?

16 MR. JESSUP: Your Honor, looking at her report, and what
17 she did, she traced the angles of the bullets through the body
18 where she was able to say how the bullets traveled from one
19 part of the body higher up in the body as they traveled through
20 it. From that, she was able to determine the trajectory of the
21 bullets, which was strictly medicine, and from that, she was
22 able to say that the decedent was either laying facedown or
23 bent over in a prone position, based upon the trajectory of the
24 bullets, and that's strictly medical testimony within her realm
25 of expertise, and she will tell you, your Honor, she testifies

2 to those types of things on a weekly basis. To say that being
3 shot four times in the back while you're either on your hands
4 and knees or laying facedown is self-defense, well, that's just
5 common sense, your Honor, and to the -- I mean, to the extent
6 you don't want her to say the word "self-defense", I mean, I
7 guess that's okay. She is still going to say that, based upon
8 all the medical evidence, he was bent over on his hands and
9 knees or laying facedown when he was shot four times in the
10 back with a hunting rifle.

11 THE COURT: Well, Mr. Levin, what you don't want to hear
12 her say is that it was inconsistent with a claim of
13 self-defense.

14 MR. LEVIN: Absolutely don't want that in, under any
15 circumstances, because that does not -- how is that helpful to
16 a jury? What kind of scientific, technical or other
17 specialized knowledge does she have to say whether something is
18 self-defense or not? That's not something that's governed by
19 the statute, as to what she can say.

20 MR. JESSUP: She is also a fact witness, your Honor, and I
21 think, you know, laypeople can testify to things that are plain
22 knowledge. You shoot somebody four times in the back while
23 they are down on their hands and knees, that's self-defense.
24 What other opinion is there?

25 MR. LEVIN: Well --

2 MR. JESSUP: And that will be a motion for directed
3 verdict later in the trial.

4 THE COURT: Well, I'll allow your motion to the extent
5 that she not be permitted to state that it's generally
6 inconsistent with a claim of self-defense, but she can testify
7 about what she found and the trajectory of the bullets and all
8 of those things.

9 MR. JESSUP: Thank you, your Honor.

10 THE COURT: And in what position the body might have been
11 in at the time the weapon was fired.

12 MR. JESSUP: Thank you, your Honor.

13 THE COURT: And the jury -- you can argue those
14 conclusions should be drawn and the jury can determine.

15 MR. JESSUP: Thank you, your Honor.

16 MR. LEVIN: Getting to what Doctor Scott told me about
17 this affidavit, and I mean, would I have the opportunity to
18 have some voir dire with her before she testified about the --
19 about that last part? I mean, certainly she can testify as to
20 the angles of the bullets, but it seems to me that the Court
21 needs to hear from her as to her full opinion about the
22 position of the body, not just some part that the attorney
23 wrote into some affidavit to the exclusion of some other things
24 that she could have put in the affidavit.

25 THE COURT: Yeah, we can voir dire. Sure.

2 MR. LEVIN: Okay.

3 THE COURT: I'm just going to mark it as allowed in part.
4 The part is, the part about her giving an opinion that it's
5 inconsistent with self-defense.

6 MR. LEVIN: Okay.

7 MR. JESSUP: Well, if we're keeping out it was
8 inconsistent with self-defense, what are we voir diring her on?

9 MR. LEVIN: The part about the decedent's body had to be
10 bending or lying facedown, because what she told me was that
11 was one possibility, but not to the exclusion of others.

12 MR. JESSUP: Well, can't you just bring that out of her on
13 the stand? Why do we need a voir dire for that? I'm just
14 trying to streamline things.

15 MR. LEVIN: Right. Can I let you know in the morning
16 about that?

17 THE COURT: Sure. I'm going to mark it allowed in part.
18 I've circled that part. What else you got?

19 MR. LEVIN: Okay. Well, the motion that deals with
20 Ms. Jackson's client about the physical evidence, I don't think
21 there is any objection on our part about that, that we want it
22 in the courtroom.

23 MR. JESSUP: Oh, yeah, we want the physical evidence in
24 the courtroom. Me and Mr. Levin. That would be great.

25 THE COURT: Well, what about this --

2 MR. LEVIN: Well, this is the last one.

3 THE COURT: Well, this thick one.

4 MR. LEVIN: Yeah, that's what I was going to talk about
5 now.

6 THE COURT: Is that the one about the evidence?

7 MR. LEVIN: No. No, no, no, no. This is about jury
8 selection.

9 THE COURT: Okay. There is another one, then.

10 MR. LEVIN: There is another one.

11 MR. JESSUP: It was filed last week, I think.

12 MS. JACKSON: Are we marking the motion regarding physical
13 evidence is allowed?

14 THE COURT: I haven't seen it yet. Is this it?

15 MR. LEVIN: No, that was filed last week.

16 THE COURT: I don't have -- do I have another one about
17 physical evidence?

18 MR. LEVIN: It's probably in the court file.

19 MR. JESSUP: Mr. Levin filed it about a week ago, your
20 Honor.

21 MR. LEVIN: Yeah.

22 MS. JACKSON: And of course, we want to be real careful
23 about keeping chain of custody and things of that nature.

24 MR. JESSUP: Absolutely.

25 MS. JACKSON: That's part of why I am here.

2 MR. JESSUP: Absolutely.

3 MR. LEVIN: I think both sides had issued subpoenas. At
4 least I know I did.

5 MR. JESSUP: We did too.

6 MR. LEVIN: I didn't know whether there would be any
7 objection, so just to be on the safe side.

8 THE COURT: I think I read this one this morning. I think
9 I have it in my stack here somewhere.

10 MR. LEVIN: That's my copy.

11 THE COURT: I'm pretty sure that's the one I read this
12 morning.

13 MR. LEVIN: Okay.

14 THE COURT: That's the motion. It's in here somewhere.
15 And all that one, all you're after there is to make sure the
16 DA's office and the sheriff's office produce tangible exhibits
17 that are needed in the trial?

18 MR. LEVIN: Correct.

19 THE COURT: Have those been noticed to the respective
20 parties so they know what they have?

21 MS. JACKSON: Yes, your Honor. I've conferred with the
22 sheriff of Harnett County and as well as the elected DA. They
23 have no objection to this evidence being allowed, provided that
24 the chain of custody is kept pristine. We're prepared to do
25 that.

2 THE COURT: Okay. So once they go into evidence, they
3 will need to stay with the clerk, I take it, until time for
4 appeals have run. You don't have any problem with that, I take
5 it? Normally, the clerk handles stuff like that. Keeps it
6 locked up.

7 MS. JACKSON: Well, I don't want to speak for the DA. I
8 can't speak for him. Perhaps we would -- I'll try to get up
9 with him when we conclude here, because again, I can't speak
10 for him. It's more within his purview, but we have no
11 objection, the sheriff's office.

12 THE COURT: Because the clerk is charged with that
13 responsibility.

14 MR. JESSUP: Yes, sir, your Honor.

15 MS. JACKSON: I wouldn't see any problem with it, but
16 again, I can't speak for the district attorney. I don't
17 represent him.

18 THE COURT: Would you like to?

19 MS. JACKSON: Nope. Got a full plate.

20 THE COURT: Okay. Anything else?

21 MR. LEVIN: Not about that. So the big motion is probably
22 the one that I am right now most concerned about. There has
23 been --

24 THE COURT: This is the last one we have. Okay.

25 MR. LEVIN: -- a deluge of media publicity, including on

2 the current WRAL website, trial starting, Presumption of Fear,
3 wrongful death lawsuit, and in yesterday's Raleigh newspaper
4 with the paid -- so-called editorial about the case from their
5 paid consultant, so I'm very concerned about the pretrial
6 publicity. I've given examples in that stack of social media,
7 newspaper articles in which the plaintiffs have been --
8 plaintiff and her husband have been quite vocal about this
9 case. So what I have asked for is for the Court to use its
10 discretion to have individual voir dire, because what I don't
11 want to happen is that we ask the jury, how many of you have
12 heard about the case, and somebody raises their hand, starts
13 talking about this article or that website, and then people go
14 check on their phone, looking at it, getting information that
15 they would not otherwise get. In the criminal setting, there
16 is a statute for it. I've cited the statute, 14-51.2. Sorry.
17 Wrong statute. 15A-1214J, says, in a capital case, the trial
18 judge, for good cause shown, may direct that jurors be selected
19 one at a time in which case each juror must first be passed by
20 the state. These jurors may be sequestered before and after
21 selection. I think in your exercise of your discretion, you
22 can do that in this case, and that's what I am asking for. I
23 don't want one juror to pollute the whole panel.

24 MR. JESSUP: Your Honor, I addressed how my clients feel,
25 and my lack of involvement in any of those things, and my lack

2 of knowledge of those things. You haven't seen me on TV. Your
3 Honor, NC GS 15A 1214 J only applies in capital cases. The
4 only places in our statutes where jurors are individually
5 sequestered are in capital cases. They are not sequestered,
6 individually sequestered in cases where people are facing life
7 in prison. They are not individually sequestered where people
8 are facing 50 years in prison for rape. I've never encountered
9 a case where they are individually sequestered in a civil case.
10 I'm not saying I don't agree that we could do something to try
11 to safeguard what Mr. Levin is worried about, but individual
12 sequestration -- I've never tried a capital case. I'm a civil
13 lawyer, your Honor. Your Honor may have presided over some,
14 but it's my understanding that this process could take a full
15 week, and this is not a case where somebody is facing the death
16 penalty, your Honor. This is a civil case. And again, our
17 statutes only call for this in capital cases. They don't call
18 for it in cases where somebody is charged with murder and
19 facing life in prison or somebody is facing 50 years in prison
20 for rape. This is extraordinary, and I think that this is a
21 bit of an overstep to start citing a capital murder case
22 statute in a civil case. That seems a little bit over the top.
23 But with that said, I don't think, you know, asking folks to
24 raise their hand, or striking jurors for cause who may have
25 been exposed and developed opinions about the press, I don't

2 think any of those things are wrong, and I think something
3 should be done, but I just don't think this extreme measure is
4 warranted because of the logistical burden and the Court's time
5 and the lawyers' time and the money that's going to be spent on
6 all that just seems over the top, your Honor.

7 THE COURT: You encompass this, I mean, you mean this to
8 encompass sequestration after they are selected?

9 MR. LEVIN: No. After they are selected? No, no.

10 THE COURT: Well, that's what it says. That jurors be
11 sequestered before and after selection.

12 MR. LEVIN: Well, no.

13 THE COURT: You mean during the selection process?

14 MR. LEVIN: During the selection process, I'm sorry.

15 THE COURT: So if we put twelve in the box, we keep the
16 rest of them -- we have to make some introductory comments,
17 anyway, and then we have to send them all out someplace.

18 MR. LEVIN: However your Honor sees fit. I'm just
19 concerned -- I've never had a case --

20 THE COURT: Well, we're trying to avoid polluting or
21 tainting the entire pool. We got to put them someplace.

22 MR. JESSUP: I'm fine with twelve in the box, we question
23 twelve at a time with the rest out of the court. I read this
24 to mean we have one juror come in at a time, so maybe I
25 misunderstood what Mr. Levin had written.

2 MR. LEVIN: Oh, I'm open to anything the Court wants to do
3 to try to safeguard this. I've never had a case where a whole
4 week, the week before, every single night on TV, there is a
5 five- or six-minute story about the case, and only one side is
6 being actually interviewed because we declined, both myself and
7 my client, declined to participate. So our version of events
8 is not out there. Then the op-ed piece, the article, contains
9 many half-truths or untruths, and so, you know, I'm just trying
10 to get a fair jury that isn't polluted by all this. So if you
11 want to do twelve at a time, I think that's a good -- I can
12 certainly live with that.

13 MR. JESSUP: I can too. I like that, your Honor. I like
14 that idea.

15 THE COURT: Well, if one of them has already got his mind
16 made up, you have to be real careful with the questions you ask
17 because they will tell you why, and then it's out there.

18 MR. LEVIN: Well, that's right. You can -- I think the
19 fact that it's been on TV, and if they have their mind made up,
20 out they go. Without going into too much detail.

21 MR. JESSUP: I support doing twelve at a time, your Honor.
22 I think that's an excellent way to do it.

23 THE COURT: Well, if you don't, you got -- they all got to
24 be someplace. You got to have extra rooms, and then they
25 wonder, why am I sitting in here with two or three others, or

2 by myself for so long? But I'm totally in favor of trying to
3 keep this thing as fair and impartial as we can make it.

4 MR. LEVIN: That's all I can ask for.

5 MS. JACKSON: I can certainly try to accommodate or help
6 in accommodating where we could put jurors in the meantime.

7 THE COURT: Anything that makes it easier to try to get
8 twelve jurors and probably two alternates for this trial would
9 be good. With all that publicity. And you're probably going
10 to have some that say, I heard it, or I saw it, but I don't
11 care, I'll set it aside. You know, you got to explore that.

12 MR. JESSUP: Yes, sir, your Honor.

13 MS. JACKSON: Just pragmatically speaking on that issue,
14 do you-all -- does anyone here have any thoughts on where to
15 keep the other jurors, excluding the non-twelve?

16 MR. JESSUP: Is there another courtroom?

17 MS. JACKSON: There's another courtroom. I'll have to see
18 if it's available. It's the veteran's courtroom.

19 THE COURT: I would presume to try to send them
20 somewhere -- I'll just say that it might be needed, some room
21 someplace. If we put twelve in the box, we'll have the jury
22 pool in the courtroom.

23 MR. LEVIN: The first twelve, so you can explain to them
24 about the case?

25 THE COURT: I'll explain to them what the case is about

2 when the entire pool is in the courtroom, then we'll question
3 the jurors. And you didn't intend to move to sequester the
4 pool, did you?

5 MR. LEVIN: Well, I thought I understood it that there is
6 going to be twelve in the box, then the people that have not
7 yet been called, after you give the introductory remarks, would
8 not be in the courtroom during the questioning of those twelve.

9 THE COURT: Well, that's kind of what I was planning. I'm
10 just trying to see if that's what you-all were talking about.

11 MR. LEVIN: Yes.

12 MR. JESSUP: That's exactly what I --

13 THE COURT: We would need a different place to put them,
14 correct? And I think there is an enlarged jury pool for this
15 trial just because of the publicity. We got more jurors than
16 we normally call. It will slow things down a little bit once
17 you excuse some jurors, you got to go bring in another one.
18 But they can handle that.

19 MR. LEVIN: Shouldn't slow us down too much.

20 THE COURT: Anything else?

21 MR. JESSUP: I got a couple very basic things.

22 THE COURT: Can you get an order together on the motions
23 in limine so we got it of record?

24 MR. JESSUP: Yes, sir, your Honor.

25 THE COURT: Because we tend to forget during the course of

2 the trial exactly what motions are allowed and not allowed. So
3 you know what questions to ask and what not to ask.

4 MR. JESSUP: Yes, sir, your Honor. We have a photo that
5 we would like to use during opening just of the decedent. I
6 showed it to Mr. Levin. I have it in the courtroom. I only
7 just want to use a photo of the individual who passed away, and
8 that's all we want to use. Would that be acceptable, your
9 Honor, and/or does Mr. Levin have any objection to it?

10 MR. LEVIN: No.

11 THE COURT: Is it a blown-up photo?

12 MR. JESSUP: Yes, sir, your Honor.

13 THE COURT: How big?

14 MR. JESSUP: We have an easel to put it on. I believe
15 it's --

16 MS. UGOLICK: It's about that wide, your Honor.

17 THE COURT: So the purpose is to show the individual so we
18 can ask, do you know this person?

19 MR. JESSUP: Yes, sir. We're going to use the photo with
20 his father. It's just a picture of the decedent.

21 MR. LEVIN: No, no, I think they want to use it during
22 their opening statement, not during jury selection.

23 MR. JESSUP: Yes, sir, your Honor. No, not during jury
24 selection. Just during opening statement. We don't intend to
25 use anything like that with the jury.

2 THE COURT: But I will ask them if they know any of the
3 parties or the attorneys or witnesses.

4 MR. JESSUP: Yes, sir, your Honor.

5 THE COURT: So you need to have your witness lists because
6 I'm going to recognize you, have you turn around, face the jury
7 pool, introduce yourself, say here are the witnesses I may
8 call, read all the names, ask them if they know any of those
9 witnesses or any of the parties or attorneys.

10 MR. JESSUP: Yes, sir, your Honor.

11 MR. LEVIN: I think you have the pretrial.

12 MR. JESSUP: The other thing, your Honor, I've had a
13 couple judges allow me to stand when we were talking to jurors
14 in voir dire. I'm terrible at saying that phrase. I'm never
15 going to get it right.

16 THE COURT: You and Jimmy Carter. He cannot say
17 "nuclear".

18 MR. JESSUP: Do you have any opinions on that or any
19 instructions for us on how you want us to conduct jury
20 selection? Stay seated?

21 THE COURT: Most everybody I can think of stays seated.

22 MR. JESSUP: Yes, your Honor.

23 THE COURT: Do you like to stand up for that?

24 MR. JESSUP: Every now and then, I like to stand, but I
25 don't like to stand for any long period of time, but I just

2 wanted -- I can stay sitting down, your Honor. I was just
3 curious. And presenting objections, I take it your Honor
4 doesn't like speaking objections. If we have an objection we
5 want to talk out, how would you like us to handle that, your
6 Honor?

7 THE COURT: Well, if you have an objection, you just make
8 an objection. If I don't rule on it, then I may ask if you
9 want to be heard, or if you want to say, Judge, I have an
10 objection. I'd like to be heard outside the presence of the
11 jury.

12 MR. JESSUP: Yes, sir, your Honor.

13 THE COURT: I'll know it has got something in it that we
14 need to let the jury out of the courtroom.

15 MR. JESSUP: Okay. And just two other quick things. I've
16 encountered a lot of different preferences in how judges want
17 exhibits published to the jury. I've in fact had a judge tell
18 me he wanted me to use the electronic equipment and had to use
19 the electronic equipment. Do you have any preferences on how
20 we publish things to the jury?

21 THE COURT: You mean, put it on the --

22 MR. JESSUP: I don't want to do that. I like using hard
23 copies.

24 THE COURT: The Elmo and blow it up?

25 MR. JESSUP: Yes, sir.

2 THE COURT: Sometimes it's faster to do it electronically
3 and they all see it at the same time, then sometimes it might
4 be more effective for your advocacy purposes to let each one
5 look at it.

6 MR. JESSUP: Yes, sir, your Honor.

7 THE COURT: But it can drag it out if you get a lot of
8 stuff going that way and they pass them down.

9 MR. LEVIN: We'll make a copy for everybody.

10 MR. JESSUP: Yeah. What we'd like to do, and we're ready
11 to do it either way, is for a lot of our photos, we have a
12 blow-up, and we'd like to show the printed pictures to the
13 witness and you, and then once you admit it and allow us to
14 publish, we then would just like to put up the blow-up on the
15 stand in front of the jury. Would that be okay to do it that
16 way, your Honor?

17 THE COURT: You let them look at it for a certain amount
18 of time, and then you take it back down so it's not sitting
19 there the whole --

20 MR. JESSUP: Yes, sir, of course.

21 THE COURT: As long as they can all see it.

22 MR. JESSUP: Okay.

23 THE COURT: If you can put it where they can see it.

24 MR. JESSUP: Thank you, your Honor. And then the last
25 thing, there is only two seats at counsel table. Me and Becca

2 are going to sit together. Our client is the mother of
3 Christian Griggs and her husband, of course, is going to be
4 here the whole trial. Would it be objectionable to have her
5 husband sit with her on the bench behind counsel table just to
6 be there for her? Because I'm sure it's going to be an
7 emotional event.

8 THE COURT: So you're going to have Ms. Griggs --

9 MR. JESSUP: Yes, sir, your Honor.

10 THE COURT: -- sitting at the table with you?

11 MR. JESSUP: Not at the table. At the bench behind
12 counsel table. And we would like to have her husband sit with
13 her just because I know she will be highly emotional during a
14 lot of this.

15 THE COURT: Mr. Levin, do you have any objection to that?

16 MR. LEVIN: No. I mean, my client's wife is there too.

17 THE COURT: I think that would be fine.

18 MR. JESSUP: Thank you, your Honor. We'll have an order
19 on the motions in limine for you in the morning.

20 THE COURT: Okay. Anything else?

21 MR. LEVIN: No, your Honor.

22 THE COURT: All right.

23 [hearing concluded at 5:32 p.m.]

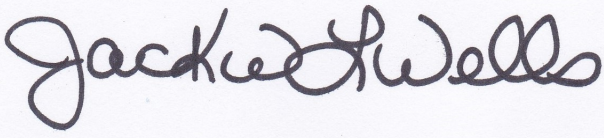
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CERTIFICATE OF TRANSCRIPT

This is to certify that the foregoing transcript of proceedings taken at the December 3, 2018 session of Harnett County Superior Court is a true and accurate transcript of the proceedings as reported by me and transcribed by me. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This the 4th day of December, 2018.

A handwritten signature in dark ink, reading "Jackie L. Wells". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent. The signature is centered within a light blue rectangular box.

Jackie L. Wells, RMR, CRR, CRC
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